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THE VIRGINIA STATE BANKER

Regulatory News for Virginia State-chartered Banks

State Corporation Commission - Bureau of Financial Institutions

E.J. Face, Jr., Commissioner

IN THIS ISSUE

1

In Memory
Application Volume

2

Examiner Training
Spring Directors' College
Application Filings

3

Safekeeping of Securities

4

Employee Profile

6

Notices

The Virginia State Banker is published quarterly by the Virginia Bureau of Financial Institutions to provide useful information to the banks and savings institutions that it regulates, and any of their related interests. Reader comments and suggestions are welcome and should be addressed to:

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Nick Kyrus
Bob Mednikov
Jonathan Orne
Jane Owen

IN REMEMBRANCE: PAUL “BUD” WEST

On Thursday, November 29th, Bud West, an 18-year veteran of the Bureau of Financial Institutions, lost his battle with cancer. As a senior financial analyst with the Bureau, Bud handled thousands of complaints and inquiries from Virginians regarding State-chartered banks and credit unions as well as mortgage and consumer finance licensees.

The remarkable thing about Bud, according to Commissioner Joe Face, is that he never once complained about his work and always “...went the extra mile to help a consumer, even when the Bureau had no jurisdiction.” Bud often became the consumer’s last hope and he clearly made a difference. The Bureau has received numerous letters and telephone calls of thanks as a result of Bud’s work over the years.

A proud native of Texas, every March 2nd Bud treated Bureau staff to a Texas- shaped cake to celebrate Texas Independence Day. His secretary of many years, Evelyn Taylor, said that Bud told some wonderful stories about his life as a young man growing up in Texas, and added that his life in Texas was “anything but dull.”

Commissioner Face sadly says, “Bud was a very dear friend to many and his passing is a tremendous loss both personally and professionally.” Bud leaves a wife, two daughters, two grandchildren, a sister, and many friends.

APPLICATION VOLUME REMAINS HIGH

Despite the economic recession and the tragic events of September 11, applications for certificates of authority and licenses continue to be filed with the Bureau of Financial Institutions at a fast pace. During 2001, the Bureau received, investigated, and processed 1,393 applications, compared with 1,489 applications in 2000. A breakdown of the applications is shown on page 5.

See Application Volume, page 5

EXAMINER TRAINING

In our ongoing effort to keep our examiners current on examination procedures, information technology, internet banking, securities, insurance, and other emerging issues, the Bank and Thrift Supervision Section conducted a week of training in early January. These sessions are necessary and helpful, given the rate of change in the financial services industry. While we cannot be experts on everything, we try to be as knowledgeable as we can, on as many topics as possible. Many of our examiners have earned professional designations, and the training also helps them meet continuing education requirements. We have a very competent examination team, and want to do all we can to keep them updated so Virginia's bankers get a good and useful examination.

We would like to thank the outside parties who assisted us in this effort. Nexity Bank; Galaxy Computer Services, Inc.; and the Federal Reserve Bank of Richmond assisted us with information on Internet banking and related subjects. Williams, Mullins provided us training on UCC-9 and trust-preferred securities. FDIC-Atlanta provided a regional economic update, and the VBA Benefits Corporation arranged a presentation on bank-owned life insurance. The SCC's Bureau of Insurance and Division of Securities gave presentations in their respective areas. There were also interesting presentations from a former FBI agent and the director of Managed Care Innovations.

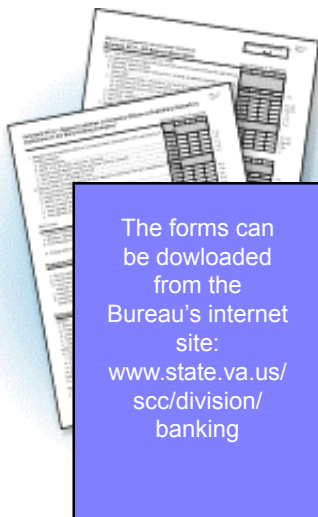


VIRGINIA BANK DIRECTORS' COLLEGE

The Spring Session of the College is scheduled for March 21 and 22 at the Virginia Crossings Conference Resort, just north of Richmond, Virginia. The Bureau, the Federal Reserve Bank of Richmond, and the Federal Deposit Insurance Corporation will host the program. The Virginia Association of Community Banks will handle administrative aspects of the College, including registration and meeting activities. Membership in VACB is not required to attend the College. For more information contact the VACB at (804) 217-8250.

APPLICATION FILINGS NO LONGER REQUIRED IN DUPLICATE

As of January 2002, applicants for various certificates of authority and licenses are no longer required to file duplicate copies of application forms and related documents. All application forms have been revised to reflect this policy change as well as some other minor changes. Applicants should begin using the new forms, which show a revision date of 01/02 in the upper left corner of the first page, immediately. The forms can be downloaded from the Bureau's internet site: www.state.va.us/scc/division/banking, or they may be requested



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www.state.va.us/scc/division/banking

by calling (804) 371-9690. "Elimination of duplicate copies will save time and money, filing space and lots of trees," stated Deputy Commissioner Nick Kyrus. Since the Bureau of Financial Institutions receives nearly 1500 applications per year, some of them voluminous, this elimination of duplicate copies will result in substantial savings. It is also the first step towards electronic filing which will be considered by the Bureau in the new year.

USE OF SECURITIES FIRMS FOR SAFEKEEPING OF SECURITIES

While the Bureau's examiners have seen very few instances of banks assigning their securities to a broker for safekeeping, the following article from the ICBA's Washington Weekly Report of January 4, 2002 is worthy of your attention.

WARNING ON SIPC COVERAGE: NONE FOR BANKS

The recent failure of a Midwest securities firm has highlighted a fact that many community bankers may be confused or misinformed about: the protection afforded them for their own securities held by a broker-dealer when the broker-dealer fails. The issue is the coverage provided by SIPC, the Securities Investor Protection Corporation, a nonprofit corporation (not a government agency) formed under the Securities Investor Protection Act of 1970.

SIPC coverage extends to customers of brokerage firms, but a bank acting for itself rather than for its own customer or customers is excluded by statute from SIPC protection. While SIPC coverage does not guarantee market value or principle or protect against investment fraud, it does ensure that customers get their stocks or bonds back when a brokerage firm collapses. SIPC coverage limits are \$500,000, including cash (not money market funds which are securities) up to \$100,000. As a result of the statutory exclusion, banks do not have this assurance for their own assets.

In the event of such a collapse, banks may find their own securities placed in a pool of assets used to satisfy claims of other covered accounts. The net result can be that the bank's brokerage account (and securities therein) may be illiquid for an extended period, and the bank may suffer an ultimate loss when liquidation of the broker-dealer is complete.

MJK Clearing Failure

The recent failure of MJK Clearing, a subsidiary of Minneapolis-based Stockwalk Group, Inc. has left a number of community banks whose brokers used MJK for clearing and safekeeping their customers' securities - holding the bag. When the firm failed, SIPC stepped in to oversee what is the largest liquidation case it has ever handled. The banks, which are not covered by SIPC, face losses. Initial estimates of the ultimate loss range from 1/2 of 1 percent to 3 percent, but could be higher or lower pending final liquidation. It will likely take two or three years to resolve all claims.

Community banks affected by the MJK Clearing failure should be mindful of the January 14, 2002 claim filing date (*we realize this deadline has passed but wanted to ensure everyone was aware of this notice - BFI*). Customer claim forms must be received by the court-appointed Trustee by that date, otherwise maximum recovery could be jeopardized. Claim forms and further information about the MJK Clearing case can be found at www.sipc.org and www.mjktrustee.com.

Lessons Learned

So long as bank-owned securities are ineligible for SIPC protection, bankers should be diligent and cautious when using safekeeping services. Bankers must realize that their broker dealer may be an introducing broker for yet another firm - the clearing broker - that actually holds the securities. Since it is the failure of the clearing broker that will trigger a SIPC action, the banker should be thoroughly familiar with the business activities, capital sufficiency, and procedures of the clearing broker.

Does the clearing broker have procedures to protect the bank's interests to the maximum extent possible? Can the securities owned by the bank be hypothecated - used as collateral for borrowing by the broker-dealer? Does the broker provide a safekeeping receipt - again reinforcing the role of the broker as a safekeeping agent and differentiating the bank's securities from other customer securities that may be hypothecated and may be subject to SIPC coverage? Is the broker-dealer holding the securities involved in other activities that could impair its capital and thus trigger a SIPC action?

Absent SIPC coverage, the decision to place securities in the hands of another (which is hard to avoid in the electronic age) is almost like a credit decision - will the firm holding the securities be responsible and here when the customer wants their securities back?

BUREAU PROFILE



BOB MEDNIKOV

AT A GLANCE

Current Position / Years of Service:
Principal Financial Analyst/ 18 years

Main Responsibilities:
Investigating applications for new financial institutions and supervising and reviewing reports written by other analysts in his section

Education:
B.S. degree in Economics

Family:
Wife, one daughter, one son

Personal Interests:
Basketball, snow skiing, surfing

The State Corporation Commission's Bureau of Financial Institutions (BFI) has witnessed several surges of new bank activity during the past several decades as major banks have merged and smaller community banks have sprung up throughout Virginia. While this means a lot of work for BFI's staff, it also has been an enjoyable challenge for Bob Mednikov, a principal financial analyst with BFI's corporate structure and research section. Bob enjoys meeting people in the banking industry and analyzing new bank applications. A majority of Bob's time is spent investigating applications for new banks, bank mergers and acquisitions, new money transmitters, and mortgage companies. He is also responsible for supervising and reviewing reports written by other analysts in his section. For new bank applications, Bob has to interview the proposed directors and management of new banks to determine if they meet the requirements of law and will be good guardians of the money entrusted to them. "We try to make sure that proposed directors have adequate experience and a good reputation in their community." The banking industry is unique, Bob said, because "...bankers are usually held to a higher standard than most other people in the business community. Everyone expects a banker to be very honest, to have high integrity, and to be trustworthy."

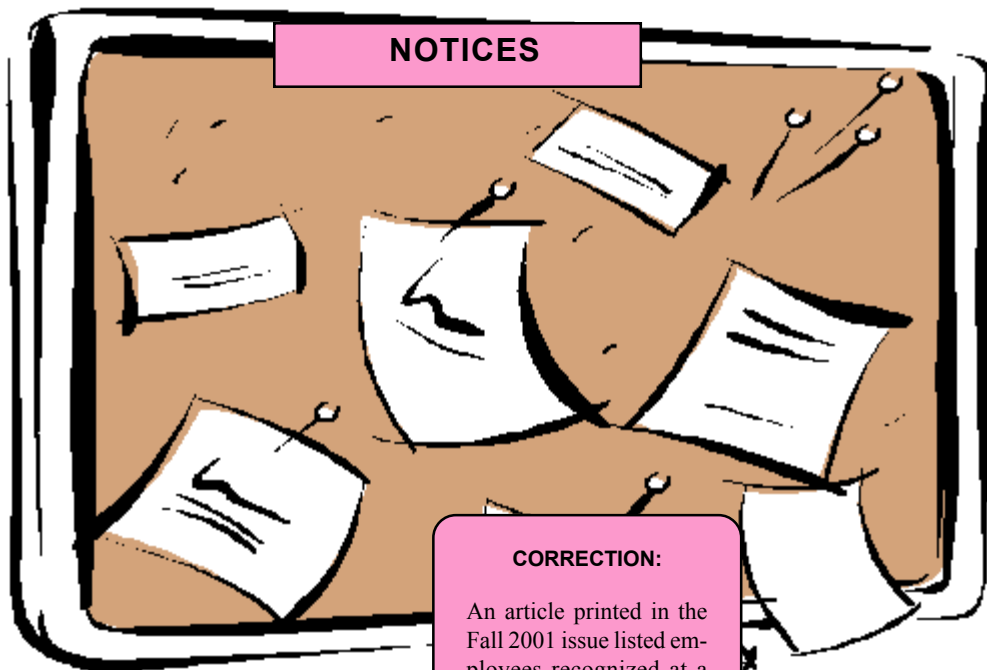
A graduate of the Virginia Military Institute with a degree in Economics, Bob joined the SCC in 1983. Becoming a financial analyst was not Bob's childhood dream. Like many young boys, he once imagined himself as a professional athlete. "My real love is basketball and athletics," he said. In addition to basketball, Bob enjoys adventure sports such as snow skiing and surfing. He and his wife, Kris, are very active in their neighborhood group, the Carillion Civic Association, which sponsors the annual Arts in the Park at Byrd Park in Richmond. In his free time, Bob enjoys spending time playing sports with his eleven-year-old daughter, Emma (a talented basketball player), and his six-year-old son, Thomas (a talented soccer player).

APPLICATION VOLUME

Continued from page 1

New Banks	2
Bank Branches	71
Bank Office Relocations	15
Bank EFT Facility	1
Bank Mergers	18
Acquisitions Pursuant to Chapter 13 of Title 6.1	5
Acquisitions Pursuant to Chapter 15 of Title 6.1	9
Acquisitions Pursuant to The Savings Institutions Act	3
New Savings Institution Conversion From Bank	1
Savings and Loan Merger	1
Establish an Independent Trust Branch	1
Out-of-State Credit Unions	2
Credit Union Mergers	2
Credit Union Service Facilities	4
Move a Credit Union Office	1
New Consumer Finance	2
Consumer Finance Offices	3
Consumer Finance Other Business	19
Consumer Finance Office Relocations	19
New Mortgage Brokers	204
New Mortgage Lenders	35
New Mortgage Lenders and Brokers	56
Mortgage Lender Broker Additional Authority	12
Exclusive Agent Qualifications	11
Acquisitions of Mortgage Companies	19
Mortgage Branches	547
Mortgage Office Relocations	284
New Money Order Sellers	16
Acquisition of Money Order Seller/Transmitter	5
New Non-Profit Debt Counseling Agencies	7
Non-Profit Debt Counseling Agency Additional Offices	9
New Check Cashers	9

At the end of 2001, there were under the supervision of the Bureau 102 banks with 1,051 branches, 60 Virginia bank holding companies, 14 non-Virginia bank holding companies with banking offices in Virginia, 2 independent trust companies, 3 savings institutions with 4 offices, 75 credit unions, 7 industrial loan associations, 28 consumer finance companies with 258 Virginia offices, 41 money order sellers and money transmitters, 20 non-profit debt counseling agencies, 44 check cashers, 106 mortgage lenders with 449 offices, 610 mortgage brokers with 1,184 offices, and 208 mortgage lender/brokers with 826 offices.



CORRECTION:

An article printed in the Fall 2001 issue listed employees recognized at a service pin ceremony. BFI employee **Susan Cross** was inadvertently omitted from this list. Susan received her 15-year service pin.



www.state.va.us/scc/division/banking

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